

HOUSE BILL No. 5499

October 6, 2009, Introduced by Rep. Young and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 2512 (MCL 339.2512), as amended by 2008 PA 90.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2512. A licensee who commits 1 or more of the following
2 is subject to the penalties set forth in article 6:

3 (a) Except in a case involving property management, acts for
4 more than 1 party in a transaction without the knowledge of the
5 parties.

6 (b) Fails to provide a written agency disclosure to a
7 prospective buyer or seller in a real estate transaction as defined
8 in section 2517.

9 (c) Represents or attempts to represent a real estate broker

1 other than the employer without the express knowledge and consent
2 of the employer.

3 (d) Fails to account for or to remit money coming into the
4 licensee's possession which belongs to others.

5 (e) Changes a business location without notification to the
6 department.

7 (f) In the case of a real estate broker, fails to return a
8 real estate salesperson's license within 5 days as provided in
9 section 2507.

10 (g) In the case of a licensee engaged in property management,
11 violates section 2512c(2), (5), or (6).

12 (h) Except as provided in section 2512b, shares or pays a fee,
13 commission, or other valuable consideration to a person not
14 licensed under this article including payment to any person
15 providing the names of, or any other information regarding, a
16 potential seller or purchaser of real estate but excluding payment
17 for the purchase of commercially prepared lists of names. However,
18 a licensed real estate broker may pay a commission to a licensed
19 real estate broker of another state if the nonresident real estate
20 broker does not conduct in this state a negotiation for which a
21 commission is paid.

22 (i) Conducts or develops a market analysis not in compliance
23 with section 2601(a) (ii) .

24 (j) Fails to provide the minimum services as specified in
25 section 2512d(3) when providing services pursuant to a service
26 provision agreement unless expressly waived in writing by the
27 client under section 2517(3).

1 (K) ALLOWS AN INDIVIDUAL NOT LICENSED UNDER THIS ARTICLE TO
2 ENTER A LISTED RESIDENCE UNACCOMPANIED BY A LICENSEE OR PROVIDES
3 INFORMATION THAT WOULD ALLOW AN INDIVIDUAL TO ENTER THE LISTED
4 RESIDENCE UNACCOMPANIED BY A LICENSEE UNDER THIS ARTICLE, OR BOTH.

5 (I) ~~(k)~~—Except in the case of property management accounts,
6 fails to deposit in the real estate broker's custodial trust or
7 escrow account money belonging to others coming into the hands of
8 the licensee in compliance with the following:

9 (i) A real estate broker shall retain a deposit or other money
10 made payable to a person, partnership, corporation, or association
11 holding a real estate broker's license under this article pending
12 consummation or termination of the transaction involved and shall
13 account for the full amount of the money at the time of the
14 consummation or termination of the transaction.

15 (ii) A real estate salesperson shall pay over to the real
16 estate broker, upon receipt, a deposit or other money on a
17 transaction in which the real estate salesperson is engaged on
18 behalf of the real estate broker.

19 (iii) A real estate broker shall not permit an advance payment
20 of funds belonging to others to be deposited in the real estate
21 broker's business or personal account or to be commingled with
22 funds on deposit belonging to the real estate broker.

23 (iv) A real estate broker shall deposit, within 2 banking days
24 after the broker has received notice that an offer to purchase is
25 accepted by all parties, money belonging to others made payable to
26 the real estate broker into a separate custodial trust or escrow
27 account maintained by the real estate broker with a bank, savings

1 and loan association, credit union, or recognized depository until
2 the transaction involved is consummated or terminated, at which
3 time the real estate broker shall account for the full amount
4 received.

5 (v) A real estate broker shall keep records of funds deposited
6 in its custodial trust or escrow account, which records shall
7 indicate clearly the date and from whom the money was received, the
8 date deposited, the date of withdrawal, and other pertinent
9 information concerning the transaction, and shall show clearly for
10 whose account the money is deposited and to whom the money belongs.
11 The records shall be subject to inspection by the department. A
12 real estate broker's separate custodial trust or escrow account
13 shall designate the real estate broker as trustee, and the
14 custodial trust or escrow account shall provide for withdrawal of
15 funds without previous notice. This article and the rules
16 promulgated pursuant to this article do not prohibit the deposit of
17 money accepted under this section in a noninterest bearing account
18 of a state or federally chartered savings and loan association or a
19 state or federally chartered credit union.

20 (vi) If a purchase agreement signed by a seller and purchaser
21 provides that a deposit be held by an escrowee other than a real
22 estate broker, a licensee in possession of such a deposit shall
23 cause the deposit to be delivered to the named escrowee within 2
24 banking days after the licensee has received notice that an offer
25 to purchase is accepted by all parties.